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Keil & Weinkauff
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Washington, DC 20036

In re Application of :
HEGER, Robert et al. :
Application No.: 09/857,480 :
PCT No.: PCT/EP99/09545 : NOTIFICATION
Int. Filing Date: 07 December 1999 :
Priority Date: 08 December 1998 : OF A
Attorney's Docket No.: 49619 :
For: NANOPARTICULATE CORE-SHELL : DEFECTIVE RESPONSE
SYSTEMS AND THE USE THEREOF :
IN PHARMACEUTICAL AND :
COSMETIC PREPARATIONS :

This notification is in response to applicants' "Response to Notification of Missing Requirements," filed on 05 October 2001.

BACKGROUND

On 07 December 1999, applicants filed international application PCT/EP99/09545, which claimed a priority date of 08 December 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 15 June 2000.

On 05 June 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 02 August 2001, the Office mailed a "Notification of Missing Requirements Under 35 U.S.C. 371 In the United States Designated/Elected Office," (Form PCT/DO/EO/905) noting, *inter alia*, that the current translation was defective for the reasons stated on the attached Notice of Defective Response and that a translation and the processing fee for late furnishing of the translation were required. The Notice of Defective Translation (Form PCT/DO/EO/913) indicated that the text in the drawings was not properly translated. Additionally, the Office mailed Notification To Comply With Requirements For Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Form PCT/DO/EO/920).

On 05 October 2001, applicants submitted the instant Response, accompanied by a drawing.

On 24 May 2002, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating the application went abandoned for failure to timely respond to the Notification of Missing Requirements.

DISCUSSION

The Notification of Abandonment mailed on 24 May 2002 issued in error resulting from the delay in matching the October submission with the application.

Applicants indicate that the specification did not contain any sequences. A review of the specification did not reveal any sequences. The Notice To Comply (Form PCT/DO/EO/920) issued in error.

In response to the Notice of Defective Translation (Form PCT/DO/EO/913), applicants submitted a single sheet with a drawing. The drawing is not a translation of the original. It lacks the title of the original and additionally has facsimile transmission text on the drawing, including the words "GESAMT SEITEN." As such, the drawing is not a translation of the international application.

The processing fee for late furnishing of the translation will be charged to deposit account no. 11-0345, as authorized by the Response.

CONCLUSION

For the above reasons, the translation does not comply with 35 U.S.C. §371(c)(2).

The Notification of Abandonment mailed 24 May 2002 is VACATED.

The Notification To Comply With Requirements For Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed 02 August 2001 is VACATED.

Applicants are required to submit a translation in compliance with 35 U.S.C. §371(c)(2) within a time limit of **ONE (1) MONTH** from the mail date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements (Form PCT/DO/EO/905), whichever is longer. No extension of this time limit may be granted under 37 CFR 1.136(a), but the period for response set in the Notification of Missing Requirements may be extended up to a maximum of five months. **FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.** Any request for reconsideration of this decision should include a cover letter entitled "Response to Notification of Defective Response."

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.



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